

## **REMARKS**

Claims 1-10 and 21-22 are pending in the present Application.

Claims 1, 3-5, 8-10 and 21 have been amended, leaving Claims 1-10 and 21-22 for further consideration upon entry of the present Amendment.

Support for the amendment to Claims 1 and 21 can at least be found in Figure 2 and the corresponding discussion on page 5 of the specification.

Support for the amendment to Claims 3 can at least be found in Figure 2 and the corresponding discussion on page 7 of the specification.

Support for the amendment to Claims 2, 4 and 5 can at least be found in Figure 6 and the corresponding discussion on page 6 and 7 of the specification.

Support for the amendment to Claims 8-10 can at least be found in Figures 1, 2 and 5 and the corresponding discussion on page 7 of the specification.

Applicants respectfully request that these amendments be entered because they 1) do not raise new issues that would require further consideration and/or search; and 2) they do not raise issue of new matter.

No new matter has been introduced by these amendments. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

### Claim Rejection Under 35 U.S.C. § 112, second paragraph

The Board affirmed the Examiner's rejection of claims 1-10, 21 and 22 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The present amendments should now overcome the rejections and place the application in condition for allowance.

Neither the Examiner nor Board addressed applicant's arguments regarding the 35 U.S.C. 112, second paragraph rejections relating to the Examiner's rejections relating to an extrinsic unclaimed variable, alternate "or" language, or an "adapter plate". Applicant's arguments are presented herewith.

Regarding the §112, second paragraph rejections, the Examiner rejected the claims as indefinite for the following reasons: (1) the term "about" is indefinite because

no tolerances are listed; (2) the claims premise the dimensions of the slot upon a variable-width of the towel; (3) the term “or” is unclear as to whether it is claiming alternate embodiments or a device capable of reconfiguration; and (4) that it is ambiguous as to whether the claims encompass a stand alone adapter plate or an adapter plate while in a dispenser.

Nor do the pending claims premise the dimensions of the aperture upon an extrinsic unclaimed variable because the amended claims recite a dispenser housing towels with traverse length,  $L$ . The abridged aperture has a definite length,  $L'$ , relative to the length of the towels. Claims are interpreted to have their ordinary meaning, not some unusual and arbitrary construction unrelated to the specification and drawings.

Regarding the Examiners rejection due to alternate “or” language, many gravity-feed towel dispensers which are capable of dispensing C-fold towels are also capable of dispensing interfolded towels, and vice-versa. The use of the word “or” in the claim merely reflects the fact that the dispenser typically only houses and dispenses one or the other type of towel at a given time. There is no basis whatsoever to require different language; an applicant is entitled to claim an invention in any appropriate manner.

As to Claims 3, 5, and 10, Applicant submits that all of the dependent claims are in proper form because they further limit the base claim. Tolerances for the ranges are unnecessary because a person of ordinary skill in the art would readily recognize that dependent claims having smaller ranges than a base claim further limits the base claim; the Examiner’s comments notwithstanding. For example, Claim 3 recites a range for the length of “about 85 percent.” Claim 3 depends from Claims 2 and 1 which recites a range of “about 80 to about 90 percent.”

As previously amended, it is clear that Claims 1-10 contemplate a modified dispenser which is fitted with an adapter plate and Claims 21 and 22 encompass the inventive improvement to a dispenser.

#### Claim Rejection Under 35 U.S.C. § 103(a)

The Board reversed the Examiner’s rejection of Claims 1-8, 21 and 22 under 35 U.S.C. § 103(a) as being unpatentable given Gettelman, US 5,957,327, issued Sep. 28, 1999, in view of BOBRICK 363 model towel dispenser as evidenced by the Examiner’s

Answer, attested to on May 13, 2008.

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' attorney hereby authorizes that such fees be charged to Deposit Account No. 10-0235.

Respectfully submitted,

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